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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
GARY JAMES ROLLER,)
)
Defendant.)
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)
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)
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No. CR 08-00361(B) RMW

**STIPULATION AND []
ORDER SETTING TRIAL DATE ON
MARCH 12, 2012, AND EXCLUDING
TIME FROM NOVEMBER 14, 2011 TO
MARCH 12, 2012, FROM
CALCULATIONS UNDER THE
SPEEDY TRIAL ACT (18 U.S.C. § 3161)**

The parties hereby request that the Court enter this order setting a trial date for November 14, 2011, and excluding time from November 14, 2011 through March 12, 2012. Trial in this matter is currently scheduled for November 14, 2011. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from November 14, 2011 through March 12, 2012 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, additional motions and defenses are appropriate.

1 Defense counsel has indicated that there are additional items that he will be seeking in discovery,
2 including some computer forensic information. In addition, defense counsel will be involved in
3 a trial in mid-November 2011 and a month-long homicide trial in February 2012. Once that trial
4 is concluded, defense counsel will need additional time to prepare for trial. The parties have also
5 held settlement discussions concerning a disposition of this case and need additional time to
6 pursue those discussions. Moreover, because of the holidays, several witnesses will be
7 unavailable for parts of November and December 2011. Therefore, for effective preparation of
8 defense counsel and continuity of counsel, the parties respectfully request that the Court vacate
9 the current trial date of November 14, 2011, set March 12, 2012 as the date for trial in this matter
10 and January 5, 2012 as the date for the pretrial conference in this case.

11 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial
12 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for
13 effective preparation of the defense and continuity of defense counsel; believes the exclusion is
14 in the defendant's best interests; and further agrees that the exclusion under the Speedy Trial
15 Act, 18 U.S.C. § 3161, should be for the period from November 14, 2011 through March 12,
16 2012.

17 Given these circumstances, the parties believe, and request that the Court find, that the
18 ends of justice are served by excluding from calculations the period from November 14, 2011
19 through March 12, 2012 outweigh the best interests of the public and the defendant in a speedy
20 trial under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

21 IT IS SO STIPULATED.

22 DATED: October 27, 2011

23 /s/ Richard Pointer
RICHARD POINTER
Attorney for Defendant

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25 DATED: October 27, 2011

26 /s/ Hanley Chew
HANLEY CHEW
Assistant United States Attorney
Attorney for Plaintiff

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Accordingly, the Court further orders that (1) trial in this case be scheduled for March 12, 2012 and pretrial conference in this case be scheduled for March 1, 2012 at 1:30 p.m.; and (2) the time from November 14, 2011 through March 12, 2012 is excluded from time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

DATED: FFEDF

Ronald M. Whyte
THE HONORABLE RONALD M. WHYTE
United States District Court Judge